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June 1, 2012

Mr. Andrew E. Zuckerman
Director, EP Rulings & Agreements
Internal Revenue Service
1111 Constitution Ave NW
Washington, DC 20224-0002

RE: Request for Updated Guidance on Automatic Approval of Funding Method Changes

Dear Mr. Zuckerman:

The American Society of Pension Professionals & Actuaries (ASPPA) is writing to request that the Internal Revenue Service (IRS) issue guidance providing automatic approval for certain changes in funding method similar to the guidance provided in Revenue Procedure 2000-40 before the funding rule changes enacted in the Pension Protection Act of 2006 (PPA) made that procedure obsolete. Although PPA leaves plan sponsors and actuaries with less discretion over methodology, there are still a number of common changes in method that we believe should be available without the burden of application for approval.

ASPPA is a national organization of more than 9,500 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines, including consultants, investment professionals, administrators, actuaries, accountants and attorneys. Our large and broad-based membership gives ASPPA unique insight into current practical applications of ERISA and qualified retirement plans, with a particular focus on the issues faced by small- to medium-sized employers. ASPPA's membership is diverse but united by a common dedication to the employer-based retirement plan system. All credentialed actuarial members of ASPPA are members of the ASPPA College of Pension Actuaries (ASPPA COPA), which has primary responsibility for the content of comment letters that involve actuarial issues.

References are to the Internal Revenue Code of 1986 (IRC) and Treasury regulations unless otherwise specified.

Summary

ASPPA COPA recommends that automatic approval be provided for the following changes in funding methods, most of which are similar to those granted under Revenue Procedure 2000-40 and Announcement 2010-3. These recommendations are described in greater detail in the ***Discussion*** section.

I. Changes in asset valuation method from fair market value to smoothed or smoothed to fair market value.

II. Changes in valuation date for small plans which have discretion regarding the choice of such date.

III. Changes in the actuarial organization performing the valuation and changes in valuation software.

IV. Changes in the valuation interest rate set from segment rates to the full yield curve, or the reverse, as well as changes in the look-back period for determining the interest rates.

Discussion

I. Changes in Asset Valuation Method

IRC §430(g)(3) allows plans to value assets based on either a fair market value or an actuarially smoothed value of assets. The IRS has provided guidance regarding the method of determining smoothed asset values with the publication of IRS Notice 2009-22. Change from either fair market value to smoothed assets or from smoothed assets to fair market value should not require application for approval as long as the methodology for smoothing assets follows the technique listed in Notice 2009-22 for smoothed assets as amended by the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA). Automatic approval should also be available when there is a change in plan year, the current asset valuation method has been assets smoothed over a 24 month period, and the asset valuation method is modified for a temporary period (two years) to include the number of months in the short plan year, plus the full plan year before or after the short plan year. Approval should also be automatic for the change back to 24 month smoothing two years after the change in plan year. Arguably, if the asset smoothing method were defined in terms of plan years instead of months, there would be no change in method when one of the two years is a short year, but where the method is defined in terms of months, a change would appear to be needed to avoid having to find asset values on mid-plan year dates that may not be available.

ASPPA COPA recommends that automatic approval be granted for changes in asset valuation method providing any smoothing comply with Notice 2009-22, and for a temporary shortening of the smoothing period due to a change in plan year.

II. Change in Asset Valuation Date

Under IRC §430(g)(2)(B), defined benefit plans with fewer than 100 participants may have a valuation date of any day within the plan year (larger plans are mandated to use the first day of the plan year as the valuation date). In practice, the valuation date used by nearly all small plans is either the first or last day of the plan year.

The change in valuation date from beginning of year to end of year or vice versa is often done in relation to the timing of data collection, the workflow of the administrative services vendor and the budgeting of the plan sponsor. Many third party administrators are able to streamline administration and thus reduce their fees to plan sponsors by using a "standard" choice - either first day or last day valuations – for all plans they administer. A change in plan year also would necessitate a change of valuation date. Finally, plans terminating on a date other than a valuation date may need to move the valuation date to date of termination or to the beginning of the plan year to allow for a reasonable final valuation of the plan.

ASPPA COPA recommends that automatic approval be granted to plans with fewer than 100 participants for changes in valuation date to either the first or last day of the plan year from any other date and for a change in the valuation date to the termination date or to the beginning of the plan year in the year in which a plan terminates. Any timing restrictions on such changes (see item V below) should be lifted if the change of valuation date is in conjunction with a plan termination, a change in plan year, or a change of actuarial organization by the plan sponsor.

III. Change in Actuarial Organization or Software

Current guidance provides automatic approval for a change in actuarial organization and signing actuary as well as a change in valuation software, subject to restrictions based upon the degree of change. These automatic approvals are temporary, pending further guidance.

ASPPA COPA recommends that the automatic approval for changes in actuarial organization and the signing actuary, as well as changes in valuation software, be made permanent.

IV. Changes in Valuation Interest Rate Set

Pre-PPA, a change in interest rates was considered a change in actuarial assumptions and would only be prevented under certain circumstances. Post-PPA, there is some confusion as to whether the use of segment rates or full yield curve is part of the funding method, or simply different actuarial assumptions.

ASPPA COPA recommends that guidance clarify whether or not a post-PPA change in interest rate sets for valuation purposes is a change in funding method or simply a change in assumptions used under the funding method. If such changes are changes in funding method, then automatic approval should be granted for any move from a full yield curve to segment rates or vice versa . Likewise, any change in the look-back month of segment rates between the month of valuation and any of the four applicable look-back months should also receive automatic approval.

Confirmation that the assumed form of payout for benefits remains an actuarial assumption would also be beneficial. This assumption may very well change with the nature of pricing between lump sums and annuities, and the actuary should have the flexibility to anticipate the impact of changing market conditions.

V. Limitation on Frequency of Automatic Approvals

Revenue Procedure 2000-40 provided a four-year limit on frequency of changes to the asset valuation method and the actuarial funding method (i.e., unit credit vs. entry age normal). While this restriction may have been necessary in the past to prevent an actuary from using the broad range of funding methods and assumptions available to allow a plan to become significantly over or under funded over time, the very nature of the changes in funding method made by PPA address such a potential issue sufficiently.

ASPPA COPA recommends that the final regulations apply a three-year limitation to automatic approval of changes in asset method, interest rate sets, and choice of valuation dates, instead of the four-year rule in Revenue Procedure 2000-40. However, the timing restriction should not apply in the event of changes in actuarial organization or software. Such a limitation could discourage plan sponsors from changing actuarial organizations, or organizations from changing software, when other considerations indicate a move should be made. Furthermore, there are already adequate restrictions placed on automatic approval when there is a change in actuary or software.

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These comments were prepared by ASPPA's Defined Benefit Subcommittee of the Government Affairs Committee and the ASPPA College of Pension Actuaries. Please contact Judy A. Miller, MSPA, Chief of Actuarial Issues at (703) 516-9300 if you have any comments or questions on the matters discussed above.

Thank you for your time and consideration.

Sincerely,

/s/
Brian H. Graff, Esq., APM
Executive Director/CEO

/s/
Judy A. Miller, MSPA
Chief of Actuarial Issues

/s/
Craig P. Hoffman, Esq., APM
General Counsel

/s/
Mark Dunbar, MSPA, Co-Chair
Gov't Affairs Committee

/s/
Ilene H. Ferenczy, Esq., APM, Co-Chair
Gov't Affairs Committee

/s/
James Paul, Esq., APM, Co-Chair
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